

U.S. DISTRICT COURT  
DISTRICT OF N.H.  
FILED

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UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Harold W. Caton

v.

Civil No. 04-cv-439-JD

U.S. Department of Interior, Secretary

O R D E R

Plaintiff moves to compel answers to interrogatories and to produce documents. Defendant objects and seeks a protective order.

Background

Judge DiClerico, in his order of May 2, 2005, permitted plaintiff to "seek discovery . . . concerning only the circumstances of the creation of the version of document no. 6 contained in the January 20, 2005, production . . ." Plaintiff thereupon served fourteen interrogatories and two document requests demanding sworn responses to each interrogatory by some twenty-one individuals. Despite the fact that defendant cannot be compelled under Fed. R. Civ. P. 33 to obtain sworn responses from individuals defendant did respond by providing sworn responses by four of the listed individuals.

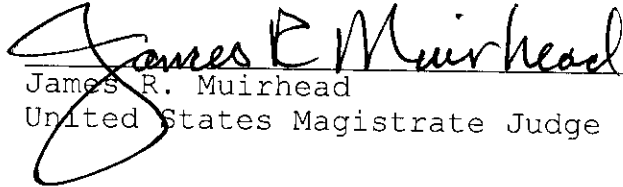
Discussion

Defendant has clearly responded to each interrogatory and

request. Depositions, not interrogatories, are the necessary discovery tool if plaintiff wants answers from the listed individuals. Rule 33 does not require defendant to solicit the sworn answers from the individuals but rather to provide defendant's sworn answer. The defendant also appears to have appropriately asserted attorney-client privilege.

The motion to compel (document no. 29) is denied. The protective order (document no. 34) is granted.

**SO ORDERED.**

  
James E. Muirhead  
United States Magistrate Judge

Date: July 29, 2005

cc: ✓Harold W. Caton, pro se  
✓T. David Plourde, Esq.

*db*